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Bank Home Mortgage, U.S. Bank Home Mortgage
Outsourcing, and Merscorp.

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

GODSON ERUCHALU,

Plaintiff,

v.

U.S. BANK, NATIONAL ASSOCIATION; US
BANK HOME MORTGAGE; US BANK
HOME MORT OUTSOURCING; NATIONAL
DEFAULT SERVICING CORP; MERSCORP;
TIFFANY & BOSCO PA; FIRST OPINION
MORTGAGE,

Defendants.

Case No.: 2:12-cv-01264-MMD-VCF

ANSWER

U.S. Bank National Association, U.S. Bank Home Mortgage, U.S. Bank Home Mortgage
Outsourcing ("U.S. Bank") and Mortgage Electronic Registration Systems, Inc. ("MERS")
(erroneously named as MERSCORP) (collectively "Defendants"), by and through their counsel, the
law firm of Duane Morris LLP, hereby answer Plaintiff Godson Eruchalu's Complaint as follows:

JURISDICTION

1. Answering paragraph 1, no allegations are made in this paragraph and thus no
response from these Defendants is required.

2. Answering paragraph 2, Defendants are without sufficient knowledge or information
upon which to base a belief as to the truth of the allegations, and upon said grounds, deny each and
every allegation therein.

1 3. Answering paragraph 3, Defendants deny the allegations. U.S. Bank is the owner of
2 the loan and holder of the original subject note. U.S. Bank's main office as set forth on its
3 organization certificate is Ohio, and has business offices in Clark County, Nevada. As to any
4 remaining allegations in paragraph 3, Defendants are without sufficient knowledge or information
5 upon which to base a belief as to the truth of the allegations, and upon said grounds, deny each and
6 every allegation therein.

7 4. Answering paragraph 4, Defendants answer that U.S. Bank Home Mortgage is a trade
8 name utilized U.S. Bank National Association for certain aspects of its mortgage business, and it is
9 not a separate juridical entity. U.S. Bank National Association has an office in Owensboro,
10 Kentucky. As to the remaining allegations in paragraph 3, deny each and every allegation therein.

11 5. Answering paragraph 5, Defendants answer that U.S. Bank is not the parent of U.S.
12 Bank Home Mortgage Outsourcing and that said entity is not a separate juridical entity. U.S. Bank
13 National Association has an office in Owensboro, Kentucky. As to the remaining allegations, the
14 allegations are vague and ambiguous and are denied.

15 6. Answering paragraph 6, Defendants answer that it contains legal conclusions to
16 which no response is required. To the extent a response is required, and as to the remaining
17 allegations, Defendants are without sufficient knowledge or information upon which to base a belief
18 as to the truth of the allegations, and upon said grounds, deny each and every allegation therein.

19 7. Answering paragraph 7, Defendants answer that the proper designation of the
20 Defendant is Mortgage Electronic Registration Systems, Inc., or MERS, and not MERSCORP.
21 Defendants admit that MERS is a Delaware corporation with a principal place of business at 1818
22 Library Street, Reston, Virginia 20190. Defendants deny that MERS does business in Clark County,
23 Nevada. *See* NRS 80.015; *see also, Bruce v. Homefield Fin., Inc.*, 2011 U.S. Dist. LEXIS 110243,
24 6-7 (D. Nev. Sept. 23, 2011).

25 8. Answering paragraph 8, Defendants are without sufficient knowledge or information
26 upon which to base a belief as to the truth of the allegations, and upon said grounds, deny each and
27 every allegation therein.
28

7 11. Answering paragraph 11, Defendants deny the allegations.

8 12. Answering paragraph 12, Defendants deny the allegations.

9 | 13. Answering paragraph 13, Defendants deny the allegations.

10 14. Answering paragraph 14, Defendants deny the allegations.

12 15. Answering paragraph 15, Defendants do not contest the jurisdiction of this Court

13 16. Answering paragraph 16, Defendants do not contest that venue is proper.

16 16.[sic] Answering paragraph 16, Defendants answer that it contains no allegations to be
17 admitted or denied.

17. Answering paragraph 17, Defendants answer that it contains citations and statements
of law to which no response is required, and there are no allegations to be admitted or denied.

18. Answering paragraph 18, Defendants answer that it contains citations and statements
of law to which no response is required, and there are no allegations to be admitted or denied.

19. Answering paragraph 19, Defendants answer that it contains citations and statements
of law to which no response is required, and there are no allegations to be admitted or denied.

24 20. Answering paragraph 20, Defendants answer that it contains citations and statements
25 of law to which no response is required, and there are no allegations to be admitted or denied.

27 21. Answering paragraph 21, Defendants admit that Plaintiff executed the Note and Deed
28 of Trust on or about August 18, 2010 and refer to said documents for their content.

1 22. Answering paragraph 22, Defendants admit that Plaintiff executed a Note in the
2 amount of \$330,548.00. Defendants deny that Plaintiff attached a copy of the Note to the
3 Complaint.

4 23. Answering paragraph 23, Defendants respond that the Note and terms thereof speak
5 for themselves.

6 24. Answering paragraph 24, Defendants respond that the Note and terms thereof speak
7 for themselves.

8 25. Answering paragraph 25, Defendants respond that Plaintiff executed the Deed of
9 Trust on or about August 18, 2010. Defendants refer to the Deed of Trust for a proper recitation of
10 its content.

11 26. Answering paragraph 26, Defendants are without sufficient knowledge or information
12 upon which to base a belief as to the truth of the allegations because the allegations are vague,
13 ambiguous and unintelligible, and upon said grounds, deny each and every allegation therein.

14 27. Answering paragraph 27, Defendants deny the allegations.

15 28. Answering paragraph 28, Defendants are without sufficient knowledge or information
16 upon which to base a belief as to the truth of the allegations because, among other things, the
17 allegations are vague, ambiguous and unintelligible, and upon said grounds, deny each and every
18 allegation therein.

19 29. Answering paragraph 29, Defendants are without sufficient knowledge or information
20 upon which to base a belief as to the truth of the allegations because, among other things, the
21 allegations are vague, ambiguous and unintelligible, and upon said grounds, deny each and every
22 allegation therein.

23 30. Answering paragraph 30, Defendants answer that it contains legal conclusions to
24 which no response is required, and no allegations to be admitted or denied.

25 31. Answering paragraph 31, Defendants are without sufficient knowledge or information
26 upon which to base a belief as to the truth of the allegations because, among other things the
27 allegations are vague, ambiguous and unintelligible, and upon said grounds, deny each and every
28 allegation therein.

1 32. Answering paragraph 32, Defendants answer that it contains legal conclusions to
2 which no response is required, and no allegations to be admitted or denied.

3 33. Answering paragraph 33, Defendants are without sufficient knowledge or information
4 upon which to base a belief as to the truth of the allegations because, among other things, the
5 allegations are vague, ambiguous and unintelligible, and upon said grounds, deny each and every
6 allegation therein.

7 34. Answering paragraph 34, Defendants are without sufficient knowledge or information
8 upon which to base a belief as to the truth of the allegations because, among other things the
9 allegations are vague, ambiguous and unintelligible, and upon said grounds, deny each and every
10 allegation therein.

11 35. Answering paragraph 35, Defendants deny the allegations.

12 36. Answering paragraph 36, Defendants deny the allegations.

13 37. Answering paragraph 37, Defendants answer that it contains legal conclusions to
14 which no response is required, and no allegations to be admitted or denied.

15 38. Answering paragraph 38, Defendants answer that it contains legal conclusions to
16 which no response is required, and no allegations to be admitted or denied.

17 39. Answering paragraph 39, Defendants refer to the Deed of Trust for its content.

18 40. Answering paragraph 40, Defendants deny the allegations.

19 41. Answering paragraph 41, Defendants deny the allegations.

20 42. Answering paragraph 42, Defendants answer that it contains legal conclusions to
21 which no response is required, and no allegations to be admitted or denied. To the extent a response
22 is found to be required, Defendants answer that they are without sufficient knowledge or information
23 upon which to base a belief as to the truth of the allegations because, among other things the
24 allegations are vague, ambiguous and unintelligible, and upon said grounds, deny each and every
25 allegation therein.

26 43. Answering paragraph 43, Defendants deny the allegations.

27 44. Answering paragraph 44, Defendants deny the allegations.

28 45. Answering paragraph 45, Defendants deny the allegations.

1 46. Answering paragraph 46, Defendants deny the allegations.

2 47. Answering paragraph 47, Defendants answer that they are without sufficient
3 knowledge or information upon which to base a belief as to the truth of the allegations because,
4 among other things, the allegations are vague, ambiguous and unintelligible, and upon said grounds,
5 deny each and every allegation therein.

6 48. Answering paragraph 48, Defendants deny the allegations.

7 49. Answering paragraph 49, , Defendants answer that they are without sufficient
8 knowledge or information upon which to base a belief as to the truth of the allegations because,
9 among other things, the allegations are vague, ambiguous and unintelligible, and upon said grounds,
10 deny each and every allegation therein.

11 50. Answering paragraph 50, Defendants answer that it contains legal conclusions to
12 which no response is required, and no allegations to be admitted or denied. To the extent a response
13 is found to be required, , Defendants answer that they are without sufficient knowledge or
14 information upon which to base a belief as to the truth of the allegations because, among other
15 things, the allegations are vague, ambiguous and unintelligible, and upon said grounds, deny each
16 and every allegation therein.

17 51. Answering paragraph 51, Defendants deny the allegations.

18 52. Answering paragraph 52, Defendants answer that it contains legal conclusions to
19 which no response is required, and no allegations to be admitted or denied. To the extent a response
20 is found to be required, Defendants answer that they are without sufficient knowledge or information
21 upon which to base a belief as to the truth of the allegations because, among other things, the
22 allegations are vague, ambiguous and unintelligible, and upon said grounds, deny each and every
23 allegation therein.

24 53. Answering paragraph 53, Defendants answer that it contains legal conclusions to
25 which no response is required, and no allegations to be admitted or denied. To the extent a response
26 is found to be required, , Defendants answer that they are without sufficient knowledge or
27 information upon which to base a belief as to the truth of the allegations because, among other
28

1 things, the allegations are vague, ambiguous and unintelligible, and upon said grounds, deny each
2 and every allegation therein.

3 54. Answering paragraph 54, Defendants deny the allegations.

4 55. Answering paragraph 55, Defendants deny the allegations.

5 56. Answering paragraph 56, , Defendants answer that they are without sufficient
6 knowledge or information upon which to base a belief as to the truth of the allegations because,
7 among other things, the allegations are vague, ambiguous and unintelligible, and upon said grounds,
8 deny each and every allegation therein.

9 57. Answering paragraph 57, , Defendants answer that they are without sufficient
10 knowledge or information upon which to base a belief as to the truth of the allegations because,
11 among other things, the allegations are vague, ambiguous and unintelligible, and upon said grounds,
12 deny each and every allegation therein.

13 58. Answering paragraph 58, , Defendants answer that they are without sufficient
14 knowledge or information upon which to base a belief as to the truth of the allegations because,
15 among other things, the allegations are vague, ambiguous and unintelligible, and upon said grounds,
16 deny each and every allegation therein.

17 59. Answering paragraph 59, , Defendants answer that they are without sufficient
18 knowledge or information upon which to base a belief as to the truth of the allegations because,
19 among other things, the allegations are vague, ambiguous and unintelligible, and upon said grounds,
20 deny each and every allegation therein.

21 60. Answering paragraph 60, Defendants deny the allegations

22 61. Answering paragraph 61, Defendants answer that they are without sufficient
23 knowledge or information upon which to base a belief as to the truth of the allegations because,
24 among other things, the allegations are vague, ambiguous and unintelligible, and upon said grounds,
25 deny each and every allegation therein.

26 62. Answering paragraph 62, Defendants deny the allegations.

27 63. Answering paragraph 63, Defendants answer that they are without sufficient
28 knowledge or information upon which to base a belief as to the truth of the allegations because,

1 among other things, the allegations are vague, ambiguous and unintelligible, and upon said grounds,
2 deny each and every allegation therein.

3 64. Answering paragraph 64, Defendants admit the allegations.

4 65. Answering paragraph 65, Defendants acknowledge that the note was not transferred
5 to MERS and do not claim that it was so transferred

6 66. Answering paragraph 66, Defendants deny the allegations.

7 67. Answering paragraph 67, Defendants deny the allegations.

8 68. Answering paragraph 68, Defendants answer that it contains legal conclusions to
9 which no response is required. As to the remaining allegations, Defendants answer that they are
10 without sufficient knowledge or information upon which to base a belief as to the truth of the
11 allegations because, among other things, the allegations are vague, ambiguous and unintelligible, and
12 no copy of the alleged "wrongful Complaint" is provided as an exhibit as Plaintiff indicates. Upon
13 these grounds, Defendants deny each and every allegation therein.

14 69. Answering paragraph 69, Defendants answer that it contains legal conclusions to
15 which no response is required. Defendants deny the factual allegations and affirmatively state that
16 U.S. Bank National Association is entitled to enforce the note.

17 70. Answering paragraph 70, Defendants answer that they are without sufficient
18 knowledge or information upon which to base a belief as to the truth of the allegations because,
19 among other things, the allegations are vague, ambiguous and unintelligible, and upon said grounds,
20 deny each and every allegation therein.

21 71. Answering paragraph 71, Defendants deny the factual allegations. No response is
22 required to the recitation of case law.

23 72. Answering paragraph 72, Defendants answer that they are without sufficient
24 knowledge or information upon which to base a belief as to the truth of the allegations because,
25 among other things, the allegations are vague, ambiguous and unintelligible, and upon said grounds,
26 deny each and every allegation therein.

27 73. Answering paragraph 73, Defendants answer that they are without sufficient
28 knowledge or information upon which to base a belief as to the truth of the allegations because,

1 among other things, the allegations are vague, ambiguous and unintelligible, and upon said grounds,
2 deny each and every allegation therein.

3 74. Answering paragraph 74, Defendants answer that it contains legal conclusions to
4 which no response is required. Defendants specifically deny Plaintiff's allegations that U.S. Bank
5 National Association lacks standing to enforce the note.

6 75. Answering paragraph 75, Defendants deny the allegations.

7 76. Answering paragraph 76, Defendants deny the allegations and specifically states that
8 MERS is not a mortgage lender

9 77. Answering paragraph 77, Defendants admit that neither MERS nor U.S. Bank is the
10 original mortgage lender.

11 78. Answering paragraph 78, Defendants states that MERS executed a Corporation
12 Assignment of Deed of Trust. As to the remaining allegations in paragraph 78, Defendants answer
13 that they are without sufficient knowledge or information upon which to base a belief as to the truth
14 of the allegations because, among other things, the allegations are vague, ambiguous and
15 unintelligible, and upon said grounds, deny each and every allegation therein.

16 79. Answering paragraph 79, Defendants deny the allegations and state that U.S. Bank
17 National Association has standing to enforce the note.

18 80. Answering paragraph 80, Defendants deny the allegations and state that U.S. Bank
19 National Association has standing to enforce the note.

20 81. Answering paragraph 81, Defendants deny the allegations and state that U.S. Bank
21 National Association has standing to enforce the note.

22 82. Answering paragraph 82, Defendants deny the allegations and state that U.S. Bank
23 National Association has standing to enforce the note.

24 83. Answering paragraph 83, Defendants answer that they are without sufficient
25 knowledge or information upon which to base a belief as to the truth of the allegations because,
26 among other things, the allegations are vague, ambiguous and unintelligible, and upon said grounds,
27 deny each and every allegation therein. Defendants specifically deny any fraudulent conduct.
28

1 84. Answering paragraph 84, Defendants answer that it contains legal conclusions to
2 which no response is required, and no allegations to be admitted or denied. To the extent a response
3 is found to be required, Defendants answer that the note is a negotiable instrument.

4 85. Answering paragraph 85, Defendant's deny that Plaintiff's debt has been discharged.
5 As to the remaining allegations in paragraph 85, Defendants answer that they are without sufficient
6 knowledge or information upon which to base a belief as to the truth of the allegations because,
7 among other things, the allegations are vague, ambiguous and unintelligible, and upon said grounds,
8 deny each and every allegation therein.

9 86. Answering paragraph 86, Defendants deny the allegations.

10 87. Answering paragraph 87, Defendants deny the allegations.

11 88. Answering paragraph 88, Defendants deny the allegations.

12 89. Answering paragraph 89, Defendants deny the allegations.

13 90. Answering paragraph 90, Defendants deny the U.S. Bank National Association does
14 not have standing to enforce the note.

15 91. Answering paragraph 91, Defendants deny the allegations.

16 92. Answering paragraph 92, Defendants deny the allegations.

17 93. Answering paragraph 93, Defendants answer that it contains legal conclusions to
18 which no response is required, and no allegations to be admitted or denied. As to the remaining
19 allegations in paragraph 85, Defendants answer that they are without sufficient knowledge or
20 information upon which to base a belief as to the truth of the allegations because, among other
21 things, the allegations are vague, ambiguous and unintelligible, and upon said grounds, deny each
22 and every allegation therein.

23 94. Answering paragraph 94, Defendants respond that the Deed of Trust and terms
24 thereof speak for themselves.

25 95. Answering paragraph 95, Defendants answer that it contains legal conclusions to
26 which no response is required, and no allegations to be admitted or denied. To the extent a response
27 is found to be required, Defendants answer that they are without sufficient knowledge or information
28

1 upon which to base a belief as to the truth of the allegations, and upon said grounds, deny each and
2 every allegation therein.

3 96. Answering paragraph 96, Defendants answer that it contains legal conclusions to
4 which no response is required, and no allegations to be admitted or denied. To the extent a response
5 is found to be required, Defendants answer that they are without sufficient knowledge or information
6 upon which to base a belief as to the truth of the allegations, and upon said grounds, deny each and
7 every allegation therein.

8 97. Answering paragraph 97, Defendants answer that it contains legal conclusions to
9 which no response is required, and no allegations to be admitted or denied. To the extent a response
10 is found to be required, Defendants answer that they are without sufficient knowledge or information
11 upon which to base a belief as to the truth of the allegations, and upon said grounds, deny each and
12 every allegation therein.

13 98. Answering paragraph 98, Defendants deny the allegations.

14 99. Answering paragraph 99, Defendants deny the allegations.

15 100. Answering paragraph 100, Defendants answer that they are without sufficient
16 knowledge or information upon which to base a belief as to the truth of the allegations because,
17 among other things, the allegations are vague, ambiguous and unintelligible, and upon said grounds,
18 deny each and every allegation therein.

19 101. Answering paragraph 101, Defendants deny the allegations.

20 102. Answering paragraph 102, Defendants answer that it contains legal conclusions to
21 which no response is required, and no allegations to be admitted or denied. To the extent a response
22 is found to be required, Defendants answer that they are without sufficient knowledge or information
23 upon which to base a belief as to the truth of the allegations because, among other things, the
24 allegations are vague, ambiguous and unintelligible, and upon said grounds, deny each and every
25 allegation therein.

26 103. Answering paragraph 103, Defendants answer that it contains legal conclusions to
27 which no response is required, and no allegations to be admitted or denied. To the extent a response
28 is found to be required, Defendants answer that they are without sufficient knowledge or information

1 upon which to base a belief as to the truth of the allegations because, among other things, the
2 allegations are vague, ambiguous and unintelligible, and upon said grounds, deny each and every
3 allegation therein.

4 104. Answering paragraph 104, Defendants are without sufficient knowledge or
5 information upon which to base a belief as to the truth of the allegations, and upon said grounds,
6 deny each and every allegation therein.

7 105. Answering paragraph 105, Defendants are without sufficient knowledge or
8 information upon which to base a belief as to the truth of the allegations, and upon said grounds,
9 deny each and every allegation therein.

10 106. Answering paragraph 106, Defendants deny the allegations.

11 107. Answering paragraph 107, Defendants are without sufficient knowledge or
12 information upon which to base a belief as to the truth of the allegations, and upon said grounds,
13 deny each and every allegation therein.

14 108. Answering paragraph 108, Defendants answer that they are without sufficient
15 knowledge or information upon which to base a belief as to the truth of the allegations because,
16 among other things, the allegations are vague, ambiguous and unintelligible, and upon said grounds,
17 deny each and every allegation therein.

18 109. Answering paragraph 109, Defendants are without sufficient knowledge or
19 information upon which to base a belief as to the truth of the allegations, and upon said grounds,
20 deny each and every allegation therein.

21 110. Answering paragraph 110, Defendants answer that they are without sufficient
22 knowledge or information upon which to base a belief as to the truth of the allegations because,
23 among other things, the allegations are vague, ambiguous and unintelligible, and upon said grounds,
24 deny each and every allegation therein

25 111. Answering paragraph 111, Defendants answer that they are without sufficient
26 knowledge or information upon which to base a belief as to the truth of the allegations because,
27 among other things, the allegations are vague, ambiguous and unintelligible, and upon said grounds,
28 deny each and every allegation therein.

1 112. Answering paragraph 112, Defendants answer that they are without sufficient
2 knowledge or information upon which to base a belief as to the truth of the allegations because,
3 among other things, the allegations are vague, ambiguous and unintelligible, and upon said grounds,
4 deny each and every allegation therein.

5 113. Answering paragraph 113, Defendants answer that they are without sufficient
6 knowledge or information upon which to base a belief as to the truth of the allegations because,
7 among other things, the allegations are vague, ambiguous and unintelligible, and upon said grounds,
8 deny each and every allegation therein.

9 114. Answering paragraph 114, Defendants answer that they are without sufficient
10 knowledge or information upon which to base a belief as to the truth of the allegations because,
11 among other things, the allegations are vague, ambiguous and unintelligible, and upon said grounds,
12 deny each and every allegation therein.

13 115. Answering paragraph 115, Defendants answer that they are without sufficient
14 knowledge or information upon which to base a belief as to the truth of the allegations because,
15 among other things, the allegations are vague, ambiguous and unintelligible, and upon said grounds,
16 deny each and every allegation therein.

17 116. Answering paragraph 116, Defendants admit that Fidelity National Title Agency of
18 Nevada is listed as the trustee. Defendants deny that there was no proof of execution of an
19 assignment of interest as original trustee to another party. As to the remaining allegations,
20 Defendants answer that they are without sufficient knowledge or information upon which to base a
21 belief as to the truth of the allegations because, among other things, the allegations are vague,
22 ambiguous and unintelligible, and upon said grounds, deny each and every allegation therein.

23 117. Answering paragraph 117, Defendants are without sufficient knowledge or
24 information upon which to base a belief as to the truth of the allegations, and upon said grounds,
25 deny each and every allegation therein.

26 118. Answering paragraph 118, Defendants answer that it contains legal conclusions to
27 which no response is required, and no allegations to be admitted or denied. To the extent a response
28 is found to be required, Defendants answer that they are without sufficient knowledge or information

1 upon which to base a belief as to the truth of the allegations, and upon said grounds, deny each and
2 every allegation therein.

3 119. Answering paragraph 119, Defendants answer that it contains legal conclusions and
4 opinions to which no response is required, and no allegations to be admitted or denied. To the extent
5 a response is found to be required, Defendants answer that they are without sufficient knowledge or
6 information upon which to base a belief as to the truth of the allegations because, among other
7 things, the allegations are vague, ambiguous and unintelligible, and upon said grounds, deny each
8 and every allegation therein.

9 120. Answering paragraph 120, Defendants answer that they are without sufficient
10 knowledge or information upon which to base a belief as to the truth of the allegations because,
11 among other things, the allegations are vague, ambiguous and unintelligible, and upon said grounds,
12 deny each and every allegation therein.

13 121. Answering paragraph 121, Defendants deny the allegations.

14 122. Answering paragraph 122, Defendants are without sufficient knowledge or
15 information upon which to base a belief as to the truth of the allegations, and upon said grounds,
16 deny each and every allegation therein.

17 123. Answering paragraph 123, Answering paragraph 119, Defendants answer that it
18 contains legal conclusions and opinions to which no response is required, and no allegations to be
19 admitted or denied. To the extent a response is found to be required, Defendants answer that they
20 are without sufficient knowledge or information upon which to base a belief as to the truth of the
21 allegations because, among other things, the allegations are vague, ambiguous and unintelligible, and
22 upon said grounds, deny each and every allegation therein.

23 124. Answering paragraph 124, Defendants deny the allegations.

24 125. Answering paragraph 125, Defendants answer that it contains legal conclusions and
25 opinions to which no response is required, and no allegations to be admitted or denied. To the extent
26 a response is found to be required, Defendants answer that they are without sufficient knowledge or
27 information upon which to base a belief as to the truth of the allegations, and upon said grounds,
28 deny each and every allegation therein.

1 126. Answering paragraph 126, Defendants answer that it contains legal conclusions to
2 which no response is required, and no allegations to be admitted or denied. To the extent a response
3 is found to be required, Defendants answer that they are without sufficient knowledge or information
4 upon which to base a belief as to the truth of the allegations, and upon said grounds, deny each and
5 every allegation therein.

6 127. Answering paragraph 127, Defendants answer that it contains legal conclusions to
7 which no response is required, and no allegations to be admitted or denied. To the extent a response
8 is found to be required, Defendants answer that they are without sufficient knowledge or information
9 upon which to base a belief as to the truth of the allegations, and upon said grounds, deny each and
10 every allegation therein.

11 128. Answering paragraph 128, Defendants answer that it contains legal conclusions to
12 which no response is required, and no allegations to be admitted or denied. To the extent a response
13 is found to be required, Defendants answer that they are without sufficient knowledge or information
14 upon which to base a belief as to the truth of the allegations, and upon said grounds, deny each and
15 every allegation therein.

16 129. Answering paragraph 129, Defendants answer that it contains legal conclusions to
17 which no response is required, and no allegations to be admitted or denied. To the extent a response
18 is found to be required, Defendants answer that they are without sufficient knowledge or information
19 upon which to base a belief as to the truth of the allegations, and upon said grounds, deny each and
20 every allegation therein.

21 130. Answering paragraph 130, Defendants answer that it contains legal conclusions to
22 which no response is required, and no allegations to be admitted or denied. To the extent a response
23 is found to be required, Defendants answer that they are without sufficient knowledge or information
24 upon which to base a belief as to the truth of the allegations, and upon said grounds, deny each and
25 every allegation therein.

26 131. Answering paragraph 131, Defendants answer that it contains legal conclusions to
27 which no response is required, and no allegations to be admitted or denied. To the extent a response
28 is found to be required, Defendants answer that they are without sufficient knowledge or information

1 upon which to base a belief as to the truth of the allegations, and upon said grounds, deny each and
2 every allegation therein.

3 132. Answering paragraph 132, Defendants answer that it contains legal conclusions to
4 which no response is required, and no allegations to be admitted or denied. To the extent a response
5 is found to be required, Defendants answer that they are without sufficient knowledge or information
6 upon which to base a belief as to the truth of the allegations, and upon said grounds, deny each and
7 every allegation therein.

8 133. Answering paragraph 133, Defendants are without sufficient knowledge or
9 information upon which to base a belief as to the truth of the allegations, and upon said grounds,
10 deny each and every allegation therein.

11 134. Answering paragraph 134, Defendants are without sufficient knowledge or
12 information upon which to base a belief as to the truth of the allegations, and upon said grounds,
13 deny each and every allegation therein.

14 135. Answering paragraph 135, Defendants are without sufficient knowledge or
15 information upon which to base a belief as to the truth of the allegations, and upon said grounds,
16 deny each and every allegation therein.

17 136. Answering paragraph 136, Defendants are without sufficient knowledge or
18 information upon which to base a belief as to the truth of the allegations, and upon said grounds,
19 deny each and every allegation therein.

20 137. Answering paragraph 137, Defendants answer that it contains legal conclusions to
21 which no response is required, and no allegations to be admitted or denied. To the extent a response
22 is found to be required, Defendants answer that they are without sufficient knowledge or information
23 upon which to base a belief as to the truth of the allegations, and upon said grounds, deny each and
24 every allegation therein.

25 138. Answering paragraph 138, Defendants answer that it contains legal conclusions to
26 which no response is required, and no allegations to be admitted or denied. To the extent a response
27 is found to be required, Defendants answer that they are without sufficient knowledge or information
28

1 upon which to base a belief as to the truth of the allegations, and upon said grounds, deny each and
2 every allegation therein.

3 **COUNT I**

4 **(DISCLOSURE VIOLATION PURSUANT TO 15 U.S.C. 1635, ET. SEQ.)**

5 139. Answering paragraph 139, Defendants repeat and reallege each and every answer to
6 paragraphs 1 through 138, inclusive, as though fully set forth herein.

7 140. Answering paragraph 140, Defendants answer that it contains legal conclusions to
8 which no response is required, and no allegations to be admitted or denied. To the extent a response
9 is found to be required, Defendants answer that they are without sufficient knowledge or information
10 upon which to base a belief as to the truth of the allegations because, among other things, the
11 allegations are vague, ambiguous and unintelligible, and upon said grounds, deny each and every
12 allegation therein.

13 141. Answering paragraph 141, Defendants answer that it contains legal conclusions to
14 which no response is required, and no allegations to be admitted or denied. To the extent a response
15 is found to be required, Defendants answer that they are without sufficient knowledge or information
16 upon which to base a belief as to the truth of the allegations because, among other things, the
17 allegations are vague, ambiguous and unintelligible, and upon said grounds, deny each and every
18 allegation therein.

19 142. Answering paragraph 142, Defendants deny the allegations.

20 143. Answering paragraph 143, Defendants answer that it contains legal conclusions to
21 which no response is required, and no allegations to be admitted or denied. To the extent a response
22 is found to be required, Defendants answer that they are without sufficient knowledge or information
23 upon which to base a belief as to the truth of the allegations because, among other things, the
24 allegations are vague, ambiguous and unintelligible, and upon said grounds, deny each and every
25 allegation therein.

26 144. Answering paragraph 144, Defendants deny the allegations.

27 **COUNT II**

**(DISCLOSURE VIOLATIONS, PURSUANT TO TITLE 12 CODE OF FEDERAL
REGULATIONS SECTION 226, ET. SEQ.)**

145. Answering paragraph 145, Defendants repeat and reallege each and every answer to paragraphs 1 through 144, inclusive, as though fully set forth herein.

146. Answering paragraph 146, Defendants answer that it contains legal conclusions to which no response is required, and no allegations to be admitted or denied. To the extent a response is found to be required, Defendants answer that they are without sufficient knowledge or information upon which to base a belief as to the truth of the allegations because, among other things, the allegations are vague, ambiguous and unintelligible, and upon said grounds, deny each and every allegation therein.

147. Answering paragraph 147, Defendants deny the allegations.

148. Answering paragraph 148, Defendants answer that it contains legal conclusions to which no response is required, and no allegations to be admitted or denied. To the extent a response is found to be required, Defendants answer that they are without sufficient knowledge or information upon which to base a belief as to the truth of the allegations because, among other things, the allegations are vague, ambiguous and unintelligible, and upon said grounds, deny each and every allegation therein.

149. Answering paragraph 147, Defendants deny the allegations.

COUNT III

**(RIGHT TO RESCIND VIOLATIONS, PURSUANT TO TITLE 12 CODE OF FEDERAL
REGULATIONS SECTION 226, ET SEQ.)**

150. Answering paragraph 150, Defendants repeat and reallege each and every answer to paragraphs 1 through 149, inclusive, as though fully set forth herein.

151. Answering paragraph 151, Defendants answer that they are without sufficient knowledge or information upon which to base a belief as to the truth of the allegations because, among other things, the allegations are vague, ambiguous and unintelligible, and upon said grounds, deny each and every allegation therein.

19

1 166. Answering paragraph 166, Defendants repeat and reallege each and every answer to
2 paragraphs 1 through 165, inclusive, as though fully set forth herein.

3 167. Answering paragraph 167, Defendants deny the allegations.

4 168. Answering paragraph 168, Defendants answer that it contains legal conclusions to
5 which no response is required, and no allegations to be admitted or denied. To the extent a response
6 is found to be required, Defendants answer that they are without sufficient knowledge or information
7 upon which to base a belief as to the truth of the allegations, and upon said grounds, deny each and
8 every allegation therein.

9 169. Answering paragraph 169, Defendants deny the allegations.

10 **COUNT VIII**

11 **(DISCLOSURE VIOLATIONS, PURSUANT TO TITLE 15 U.S.C. SECTION 1601, ET. SEQ.**
12 **AND REGULATION Z)**

13 170. Answering paragraph 170, Defendants repeat and reallege each and every answer to
14 paragraphs 1 through 169, inclusive, as though fully set forth herein.

15 171. Answering paragraph 171, Defendants deny the allegations.

16 172. Answering paragraph 172, Defendants answer that it contains legal conclusions to
17 which no response is required, and no allegations to be admitted or denied. To the extent a response
18 is found to be required, Defendants answer that they are without sufficient knowledge or information
19 upon which to base a belief as to the truth of the allegations because, among other things, the
20 allegations are vague, ambiguous and unintelligible, and upon said grounds, deny each and every
21 allegation therein.

22 173. Answering paragraph 173, Defendants deny the allegations.

23
24 **COUNT IX**

25 **(FAILURE TO DISCLOSE CALCULATION OF MORTGAGE BALANCE, PURSUANT TO**
26 **TITLE 12 CFR SECTION 226.4, ET. SEQ.)**

27 174. Answering paragraph 174, Defendants repeat and reallege each and every answer to
28 paragraphs 1 through 173, inclusive, as though fully set forth herein.

1 175. Answering paragraph 175, Defendants deny the allegations.

2 176. Answering paragraph 176, Defendants answer that it contains legal conclusions to
3 which no response is required, and no allegations to be admitted or denied. To the extent a response
4 is found to be required, Defendants answer that they are without sufficient knowledge or information
5 upon which to base a belief as to the truth of the allegations because, among other things, the
6 allegations are vague, ambiguous and unintelligible, and upon said grounds, deny each and every
7 allegation therein.

8 177. Answering paragraph 177, Defendants deny the allegations.

9 **COUNT X**

10 **(FAILURE TO DISCLOSE ITEMIZATION OF CHARGES, PURSUANT TO TITLE 12**
11 **U.S.C. 2610 ET. SEQ.)**

12 178. Answering paragraph 178, Defendants repeat and reallege each and every answer to
13 paragraphs 1 through 177, inclusive, as though fully set forth herein.

14 179. Answering paragraph 179, Defendants deny the allegations.

15 180. Answering paragraph 180, Defendants answer that it contains legal conclusions to
16 which no response is required, and no allegations to be admitted or denied. To the extent a response
17 is found to be required, Defendants answer that they are without sufficient knowledge or information
18 upon which to base a belief as to the truth of the allegations because, among other things, the
19 allegations are vague, ambiguous and unintelligible, and upon said grounds, deny each and every
20 allegation therein.

21 181. Answering paragraph 181, Defendants deny the allegations.

22 **COUNT XI**

23 **(VIOLATIONS OF THE FAIR DEBT COLLECTIONS PRACTICES ACT ("FDCPA") 15**
24 **U.S.C. § 1692)**

25 182. Answering paragraph 182, Defendants repeat and reallege each and every answer to
26 paragraphs 1 through 181, inclusive, as though fully set forth herein.

27 183. Answering paragraph 183, Defendants deny the allegations.

28 184. Answering paragraph 184, Defendants deny the allegations.

1 185. Answering paragraph 185, Defendants deny the allegations.

2 186. Answering paragraph 186, Defendants deny the allegations.

3 187. Answering paragraph 187, Defendants deny the allegations.

4 188. Answering paragraph 188, Defendants deny the allegations.

5 189. Answering paragraph 189, Defendants deny the allegations.

6 190. Answering paragraph 190, Defendants deny the allegations.

7 191. Answering paragraph 191, Defendants deny the allegations.

8 192. Answering paragraph 192, Defendants deny the allegations.

9 193. Answering paragraph 193, Defendants deny the allegations.

10
11
12 **COUNT XII**

13 **(VIOLATIONS OF RESPA 12 U.S.C. 2601 ET. SEQ.)**

14 194. Answering paragraph 194, Defendants repeat and reallege each and every answer to
15 paragraphs 1 through 193, inclusive, as though fully set forth herein.

16 195. Answering paragraph 195, Defendants are without sufficient knowledge or
17 information upon which to base a belief as to the truth of the allegations, and upon said grounds,
18 deny each and every allegation therein.

19 196. Answering paragraph 196, Defendants answer that they are without sufficient
20 knowledge or information upon which to base a belief as to the truth of the allegations because,
21 among other things, the allegations are vague, ambiguous and unintelligible, and upon said grounds,
22 deny each and every allegation therein.

23 197. Answering paragraph 197, Defendants answer that they are without sufficient
24 knowledge or information upon which to base a belief as to the truth of the allegations because,
25 among other things, the allegations are vague, ambiguous and unintelligible, and upon said grounds,
26 deny each and every allegation therein.

27 198. Answering paragraph 198, Defendants deny the allegations.

28 199. Answering paragraph 199, Defendants deny the allegations.

XIII

(SLANDER OF TITLE/PETITION TO QUIET TITLE)

200. Answering paragraph 200, Defendants repeat and reallege each and every answer to paragraphs 1 through 199, inclusive, as though fully set forth herein.

201. Answering paragraph 201, Defendants deny the allegations.

202. Answering paragraph 202, Defendants deny the allegations.

203. Answering paragraph 203, Defendants deny the allegations.

204. Answering paragraph 204, Defendants deny the allegations.

205. Answering paragraph 205, Defendants deny the allegations.

206. Answering paragraph 206, Defendants deny the allegations.

207. Answering paragraph 207, Defendants deny the allegations.

208. Answering paragraph 208, Defendants deny the allegations.

209. Answering paragraph 209, Defendants deny the allegations.

210. Answering paragraph 210, Defendants deny the allegations.

211. Answering paragraph 211, Defendants deny the allegations.

XIV

**(FRAUD AND MISREPRESENTATION NEVADA UNFAIR TRADE PRACTICES NRS
598A.010 – NRS 598A.280 ET. SEQ.)**

212. Answering paragraph 212, Defendants repeat and reallege each and every answer to paragraphs 1 through 211, inclusive, as though fully set forth herein.

213. Answering paragraph 213, Defendants deny the allegations.

214. Answering paragraph 214, Defendants deny the allegations.

215. Answering paragraph 215, Defendants deny the allegations.

216. Answering paragraph 216, Defendants deny the allegations.

217. Answering paragraph 217, Defendants deny the allegations.

218. Answering paragraph 218, Defendants deny the allegations.

219. Answering paragraph 219, Defendants admit that a foreclosure was commenced.

220. Answering paragraph 220, Defendants deny the allegations.

XV

(DISCRIMINATION AND TILA VIOLATIONS)

221. Answering paragraph 221, Defendants repeat and reallege each and every answer to paragraphs 1 through 220, inclusive, as though fully set forth herein.

222. Answering paragraph 222, Defendants deny the allegations.

223. Answering paragraph 223, Defendants deny the allegations.

XVI.

(NEGLIGENT SUPERVISION)

224. Answering paragraph 224, Defendants repeat and reallege each and every answer to paragraphs 1 through 223, inclusive, as though fully set forth herein.

225. Answering paragraph 225, Defendants answer that it contains legal conclusions to which no response is required, and no allegations to be admitted or denied. To the extent a response is found to be required, Defendants answer that they are without sufficient knowledge or information upon which to base a belief as to the truth of the allegations because, among other things, the allegations are vague, ambiguous and unintelligible, and upon said grounds, deny each and every allegation therein.

226. Answering paragraph 226, Defendants deny the allegations.

227. Answering paragraph 227, Defendants deny the allegations.

228. Answering paragraph 228, Defendants deny the allegations.

229. Answering paragraph 229, Defendants deny the allegations.

230. Answering paragraph 230, Defendants deny the allegations.

231. Answering paragraph 231, Defendants deny the allegations.

XVII.

(DEFECTIVE TITLE SEARCH)

232. Answering paragraph 232, Defendants repeat and reallege each and every answer to paragraphs 1 through 231, inclusive, as though fully set forth herein.

233. Answering paragraph 233, Defendants deny the allegations.

234. Answering paragraph 234, Defendants deny the allegations.

1 235. Answering paragraph 235, Defendants deny the allegations.

2 236. Answering paragraph 236, Defendants deny the allegations.

3 237. Answering paragraph 237, Defendants deny the allegations.

4 **XVIII.**

5 **(FRAUDULENT APPRAISAL)**

6 238. Answering paragraph 238, Defendants repeat and reallege each and every answer to
7 paragraphs 1 through 237, inclusive, as though fully set forth herein.

8 239. Answering paragraph 238, Defendants deny the allegations.

9 240. Answering paragraph 240, Defendants deny the allegations.

10 241. Answering paragraph 241, Defendants deny the allegations.

11 **XIX.**

12 **(BAD FAITH MEDIATION)**

13 242. Answering paragraph 242, Defendants repeat and reallege each and every answer to
14 paragraphs 1 through 241, inclusive, as though fully set forth herein.

15 243. Answering paragraph 243, Defendants deny the allegations.

16 244. Answering paragraph 244, Defendants deny the allegations.

17 245. Answering paragraph 245, Defendants deny the allegations.

18 246. Answering paragraph 246, Defendants deny the allegations.

19 247. Answering paragraph 247, Defendants deny the allegations.

20 248. Answering paragraph 248, Defendants deny the allegations.

21 **XX.**

22 **(COMMON LAW FRAUD AND INJURIOUS FALSEHOOD)**

23 249. Answering paragraph 249, Defendants repeat and reallege each and every answer to
24 paragraphs 1 through 248, inclusive, as though fully set forth herein.

25 250. Answering paragraph 250, Defendants deny the allegations.

26 251. Answering paragraph 251, Defendants deny the allegations.

27 252. Answering paragraph 252, Defendants deny the allegations.

28 253. Answering paragraph 253, Defendants deny the allegations.

1 254. Answering paragraph 254, Defendants deny the allegations.

2 255. Answering paragraph 255, Defendants deny the allegations.

3 256. Answering paragraph 256, Defendants deny the allegations.

4 257. Answering paragraph 257, Defendants deny the allegations.

5 258. Answering paragraph 258, Defendants deny the allegations.

6 259. Answering paragraph 259, Defendants deny the allegations.

7 **AFFIRMATIVE DEFENSES**

8 **FIRST AFFIRMATIVE DEFENSE**

9 The Complaint, and each purported cause of action contained therein, fails to state facts
10 sufficient to constitute a cause of action against Defendants.

11 **SECOND AFFIRMATIVE DEFENSE**

12 Plaintiff's claims are bared by the doctrine of unclean hands and other equitable principles,
13 including Plaintiff's own failure to do equity. Among other things, Plaintiff has failed to tender the
14 amount due under the promissory note which is a condition for bringing this action and/or obtaining
15 the relief sought.

16 **THIRD AFFIRMATIVE DEFENSE**

17 Plaintiff failed to mitigate his damages.

18 **FOURTH AFFIRMATIVE DEFENSE**

19 Plaintiff's claims are barred by the applicable statute of limitations and the doctrine of laches.

20 **FIFTH AFFIRMATIVE DEFENSE**

21 The damages, if any, suffered by Plaintiff were caused in whole or in part by the negligence
22 and/or intentional acts of third parties over which Defendants had no control nor any right to control.

23 **SIXTH AFFIRMATIVE DEFENSE**

24 Defendants committed no wrongful acts as to Plaintiff and, therefore, they are not
25 responsible for the damages to Plaintiff, if any.

26 **SEVENTH AFFIRMATIVE DEFENSE**

27 Plaintiff has waived any right to bring this action.
28

EIGHTH AFFIRMATIVE DEFENSE

Plaintiff's claims for relief are barred in that Plaintiff is *in pari delicto* with respect to the events alleged.

NINTH AFFIRMATIVE DEFENSE

Defendants are informed and believe and thereon allege that Plaintiff's losses, if any, are speculative and/or uncertain, and therefore, not compensable.

TENTH AFFIRMATIVE DEFENSE

Defendants are informed and believe and thereon allege that Plaintiff, by virtue of his acts, omissions, conduct, statements and/or representations is estopped from bringing this action.

ELEVENTH AFFIRMATIVE DEFENSE

Defendants are entitled to an offset of any amounts paid to Plaintiff for damages allegedly sustained in this action, including any and all amounts paid by or on behalf of any tortfeasor, against any amounts that may be found to be owed by Defendants.

TWELFTH AFFIRMATIVE DEFENSE

Defendants' actions were proper and not in violation of any federal, state or local statutes or codes.

THIRTEENTH AFFIRMATIVE DEFENSE

Defendants allege that at all times mentioned in the Complaint, Defendants acted lawfully and within their legal rights, with a good faith belief in the exercise of those rights, and in the furtherance of a legitimate business purpose. Further, Defendants acted in good faith in the honest belief that the acts, conduct and communications, if any, of the Defendants were justified under the circumstances based on information reasonably available to Defendants.

FOURTEENTH AFFIRMATIVE DEFENSE

Assuming *arguendo* that Defendants violated any statute or code, which violation Defendants deny, such violation was not intentional and resulted from a bona fide error, notwithstanding the maintenance of procedures reasonably adapted to avoid any such error.

FIFTEENTH AFFIRMATIVE DEFENSE

The rights and remedies available to Plaintiff with regard to the allegations contained in

1 Plaintiff's Complaint are governed by the mortgage agreement and related documents, and all terms
2 stated therein. Plaintiff's action herein is barred, restricted, and/or limited accordingly.

3 **SIXTEENTH AFFIRMATIVE DEFENSE**

4 Plaintiff's claims are subject to offset and recoupment.

5 **SEVENTEENTH AFFIRMATIVE DEFENSE**

6 The federal and state laws Plaintiff cites do not confer a private right of action.

7 **EIGHTEENTH AFFIRMATIVE DEFENSE**

8 Plaintiff's improper service of the Complaint and/or Summonses renders service of no effect.

9
10 **NINETEENTH AFFIRMATIVE DEFENSE**

11 Defendants hereby incorporate by reference those affirmative defenses enumerated in FRCP
12 8(c) as if fully set forth herein. In the event further investigation or discovery reveals the
13 applicability of any such defenses, Defendants reserve the right to seek leave of court to amend their
14 Answer to specifically assert any such defense(s). Such defenses are herein incorporated by
15 reference for the specific purpose of not waiving any such defense.

16 **TWENTIETH AFFIRMATIVE DEFENSE**

17 Pursuant to FRCP 11, as amended, all possible affirmative defenses may not have been
18 alleged herein insofar as sufficient facts were not available after reasonable inquiry upon the filing of
19 Defendants' Answer to the Complaint and, therefore, Defendants reserve the right to amend this
20 Answer to allege additional affirmative defenses if subsequent investigation warrants.

21 WHEREFORE, the Defendants pray as follows:

- 22 1. That Plaintiff takes nothing by way of the Complaint as against Defendants herein;
23 2. For reasonable attorneys' fees and costs for having to defend against this suit; and,

24 ///

25 ///

26 ///

27 ///

28 ///

1 3. For such other and further relief as the Court deems just and proper.

2 DATED: August 22, 2012

DUANE MORRIS LLP

3
4 By: 

Dominica C. Anderson (SBN 2988)

Brian A. Neighbarger (SBN 11225)

5
6 Attorneys for U.S. Bank National Association, U.S.
7 Bank Home Mortgage, U.S. Bank Home Mortgage
8 Outsourcing, and Merscorp.
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CERTIFICATE OF SERVICE

1. On August 22, 2012, I served the following document(s):

ANSWER

2. I served the above-named document by the following means to the persons listed below:

a. By electronic transmission through the CM/EFC filing system of the US Bankruptcy Court, District of Nevada

Matthew K. Schriever: mschriever@wildelaw.com;

Gregory L. Wilde: feddc@wildelaw.com

b. By United States Postal Service:

**Godson Eruchalu
7730 North Jones Blvd.
Las Vegas, NV 89131**

3. I declare under penalty of perjury that the foregoing is true and correct.

SIGNED: August 22, 2012

Jennifer Coogan
(Name of Declarant)

/s/ Jennifer Coogan
(Signature of Declarant)